IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY FIFTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

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WRIT PETITION No.8335 of 1999

Between:

1 Chintalapati Pullam Raju S/o Venkataraju
R/o Krishna Lanka, Vijayawada,
Krishna District.
2 Chintalapati Venkatraraju S/o Late Narayana Raju
R/o Chilakalaguda, Secunderabad.
3 Chintalapati Ravi Surapa Raju S/o Late Narayana Raju
R/o Nacharam, Hyderabad.

..... PETITIONERS

AND

1 The District Collector, Eluru, West Godavari District.
2 The Revenue Divisional Officer, Eluru, West Godavari District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate Writ order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the respondents in acquiring the land of an extent of Ac.1-00 in S.No.132/2B of Ganapavaram Village, Ganapavaram Mandal, West Godavari District as arbitrary, illegal and non-est in the eye of law and consequently direct the respondents to drop the entire proceedings initiated under the land Acquisition Act.

Counsel for the Petitioner: MR.T.S.ANAND

Counsel for the Respondent Nos.1 and 2: GP FOR REVENUE

The Court made the following:

ORDER:

The petitioners are owners of land admeasuring Acs.1.00 in Survey No.132/2B of Ganapavaram village in West Godavari District. The first respondent herein issued a notification under Section 4 (1) of the Land Acquisition Act, 1894 (the Act, for brevity) proposing to acquire the land for a public purpose, namely, to provide house sites to poor people. By the same notification purporting to exercise powers under Section 17 (4) of the Act, the first respondent dispensed with the enquiry under Section 5 A of the Act. A notification issued under Section 6 of the Act declaring that Section 5 A of the Act is not applicable was published in West Godavari District Gazette on 05.12.1998. Assailing these two notifications under Sections, the present writ petition is filed.

This Court initially while ordering notice before admission on 19.4.1999 rejected the prayer made in WPMP No.10308 of 1999 for stay of all further proceedings. Subsequently when the writ petition was listed for admission, while admitting the writ petition on 07.7.1999, this Court passed the following interim order in WPMP No.10308 of 1999:

I am not interested to stay the Land Acquisition Proceedings initiated by the respondents. However, I direct the respondents to conduct enquiry under Section 5 A of the Land Acquisition Act, after giving notice to the affected parties.

As stated by the petitioners that they are in possession of the land, interim direction not to dispossess the petitioners until finalisation of the Land Acquisition Proceedings.

Notice.

When the matter is called for hearing today, the learned Assistant Government Pleader after obtaining instructions submits that the enquiry as ordered by this Court under Section 5 A of the Act has been initiated by the second respondent. In that view of the matter, the learned Counsel for the petitioners submits that as the enquiry under Section 5 A is dispensed with in a routine manner, the declaration under Section 6 of the Act may be set aside directing the completion of the enquiry expeditiously.

Notification under Section 4(1) was issued almost six years ago. Therefore at this point of time I do not see any reason to dispense with the enquiry under Section 5 A of the Act. Indeed as ordered by this Court on 07.7.1999, the enquiry under Section 5 A is being conducted. Therefore the declaration under Section 6 (1) vide notification dated 14.12.1998 published in West Godavari Gazette No.136 is set aside and liberty is given to the respondents to complete the enquiry under Section 5 A of the Act within a period of two months from the date of receipt of a copy of this order and take appropriate action in the matter. Till the proceedings under the Act

are completed, if the petitioners are still in possession, they shall not be dispossessed.

The writ petition, with the observations and directions, is disposed of without any order as to costs.

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October 25, 2004. **V.V.S. RAO, J**

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To

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1 The District Collector, Eluru, West Godavari District.
2 The Revenue Divisional Officer, Eluru, West Godavari District.

3 Two CCs to the Government Pleader for Revenue, High Court

Buildings, Hyderabad (O.U.T).

4 Two C.D. Copies.